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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,276	06/20/2003	Cory Hillebrand	CH 100	6445

7590  
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11/19/2004

EXAMINER
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EDMONDSON, LYNNE RENEE

ART UNIT	PAPER NUMBER
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1725

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/601,276

Applicant(s)

HILLEBRAND, CORY

Examiner

Lynne Edmondson

Art Unit

1725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,4-8 and 11-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-16 is/are allowed.
- 6) ☒ Claim(s) 1,4-8,17,18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. The abstract of the disclosure is objected to because it is not on a separate sheet. Correction is required. See MPEP § 608.01(b).
2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Geddes et al. (USPN 5560945).

Geddes teaches a method of forming an article for packaging food items by providing two flexible sheets and ultrasonically sealing the selected areas of the sheets to form a pouch into which food is placed (col 5 lines 55-67 and col 8 lines 32-35). The pouch can be triangular (flat cone, col 4 lines 16-34). The top sheet comprises scores (col 4 lines 35-50).

5. Claims 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Milano (USPN 3935810).

Milano teaches a method of forming an article for packaging food items by providing two flexible sheets and sealing (with heat or adhesive) the selected areas of the sheets to form a pouch into which food is placed (col 2 lines 41-51). One or both sheets comprise a metal foil (col 6 lines 52-56). The sheets are scored at the sealing edges so that multiple rows of pouches may be formed from a single sheet (col 2 lines 56-68 and col 4 line 23 – col 5 line 26). As the interior shape of the multiple pouches may be triangular (col 9 lines 31-39) using the same method, the triangles must be in opposed relation to be removed from a single sheet as the rectangular pouches would be with no waste. As shown in figure 1, the rows are wrapped around a cylindrical roll (39, col 4 lines 23-47). The opening edge is pinched (folded) to close the pouch (col 7 lines 31-39 and col 7 line 48 – col 8 line 18). It is noted that the individual separated

pouch can be formed by a variety of methods including but not limited to heat-sealing of two triangularly sheets.

6. Claims 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Ikeda (USPN 4784864).

Ikeda teaches a method of forming an article for packaging food items by providing two flexible sheets and sealing the selected areas of the sheets to form multiple triangularly shaped pouches into which food can be placed (figures 6A and 12, col 2 lines 35-50 and col 5 line 45 – col 6 line 4). The sheets are scored at the sealing edges so that multiple rows of pouches may be formed. It is noted that the individual separated pouch can be formed by a variety of methods including but not limited to heat-sealing of two triangularly sheets.

7. Claims 1 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Larkin et al. (USPN 6077208).

Larkin teaches a method of forming an article for packaging food items by providing two flexible sheets and ultrasonically sealing the selected areas of the sheets to form a pouch into which food is placed. One or both sheets comprise a metal foil (col 2 line 49 – col 3 line 6). The pouch can be triangular (col 7 line 64 – col 8 line 8).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1 and 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Milano (USPN 3935810) in view of Imer (USPN 5842790).

Milano teaches a method of forming an article for packaging food items by providing two flexible sheets and sealing (with heat or adhesive) the selected areas of the sheets to form a pouch into which food is placed (col 2 lines 41-51). One or both sheets comprise a metal foil (col 6 lines 52-56). The sheets are scored at the sealing edges so that multiple rows of pouches may be formed from a single sheet (col 2 lines 56-68 and col 4 line 23 – col 5 line 26). As the interior shape of the multiple pouches may be triangular (col 9 lines 31-39) using the same method, the triangles must be in opposed relation to be removed from a single sheet as the rectangular pouches would be with no waste. As shown in figure 1, the rows are wrapped around a cylindrical roll (39, col 4 lines 23-47). The opening edge is pinched (folded) to close the pouch (col 7 lines 31-39 and col 7 line 48 – col 8 line 18). It is noted that the individual separated pouch can be formed by a variety of methods including but not limited to heat-sealing of two triangularly sheets. However, the sealing method is not further disclosed.

Imer teaches flexible metal or polymer sheets ultrasonically bonded to form a pouch for food (col 1 lines 50-59, col 2 lines 48-60 and col 5 lines 13-23).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ ultrasonic welding as an alternative to heat sealing and adhesives as is conventional in the art to form reliable seals in a simple and cost-effective manner that does not introduce contaminants.

10. Claims 1, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ikeda (USPN 4784864) in view of Imer (USPN 5842790).

Ikeda teaches a method of forming an article for packaging food items by providing two flexible sheets and sealing the selected areas of the sheets to form multiple triangularly shaped pouches into which food can be placed (figures 6A and 12, col 2 lines 35-50 and col 5 line 45 – col 6 line 4). The sheets are scored at the sealing edges so that multiple rows of pouches may be formed. It is noted that the individual separated pouch can be formed by a variety of methods including but not limited to heat-sealing of two triangularly sheets. However, the sealing method is not further disclosed.

Imer teaches flexible metal or polymer sheets ultrasonically bonded to form a pouch for food (col 1 lines 50-59, col 2 lines 48-60 and col 5 lines 13-23).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ ultrasonic welding as an alternative to heat sealing and adhesives as is conventional in the art to form reliable seals in a simple and cost-effective manner that does not introduce contaminants.

***Response to Arguments***

11. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

***Allowable Subject Matter***

12. Claims 11-16 are allowed.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Leeds et al. (USPN 3575325, triangular opposed pouches, scored), Johnson (USPN 4077151, triangular opposed pouches, scored), Ramalingam (US 2002/0006484, identical method to form square pouches) and Mandava et al. (USPN 6287612 B1).

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Edmondson whose telephone number is (571) 272-1172. The examiner can normally be reached on Monday through Thursday from 6:30 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on (571) 272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1725

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lynne Edmondson  
Primary Examiner  
Art Unit 1725

LRE

LYNNE R. EDMONDSON  
PRIMARY EXAMINER

*11/17/08*